80-1668

No.

Office-Supreme Court, U.S.
FILED
APR 6 1981
ALEXANDER L. STEVAS,
CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1980

THE PEOPLE OF THE STATE OF MICHIGAN, PETITIONER,

VS.

WILBERT PEQUES, RESPONDENT.

PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF MICHIGAN

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QUESTION PRESENTED

Is the Michigan Court of Appeals decision — holding that sentencing defendant to the maximum sentence after he refused to cooperate with the police in naming others higher up in the narcotics trade is a violation of the Fifth Amendment — in direct conflict with decisions of this Court?

PARTIES TO THE PROCEEDING

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No.

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THE PEOPLE OF THE STATE OF MICHIGAN, PETITIONER,

VS.

WILBERT PEQUES, RESPONDENT.

PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF MICHIGAN

Now comes William L. Cahalan, Prosecuting Attorney in and for the County of Wayne, State of Michigan, by Edward R. Wilson, Principal Attorney, Appeals, and Anne B. Wetherholt, Assistant Prosecuting Attorney, and prays that a Writ of Certiorari issue to review the judgment of the Court of Appeals of the State of Michigan entered in the above-entitled cause on April 25, 1980, application for rehearing denied by the Court of Appeals on July 9, 1980, and judgment of the Court of Appeals affirmed by the Michigan Supreme Court on February 13, 1981.

OPINIONS BELOW

The Michigan Court of Appeals by an opinion issued April 25, 1980 ruled it was a violation of Fifth Amendment rights for a judge to inform defendant he could expect to receive the maximum sentence unless he told police what he knew about the involvement of others in drug trafficking. This opinion is appended as Appendix A. An application for rehearing relying on *Roberts* v *United States*, 445 US 552, 100 S Ct 1358, 63 L Ed 2d 622 (1980), was denied by the Court of Appeals on July 9, 1980. This order is appended as Appendix B. The Court of Appeals opinion was affirmed by the Michigan Supreme Court in an order issued February 13, 1981. This order is appended as Appendix C.

STATEMENT OF JURISDICTION

The opinion of the Michigan Court of Appeals was issued April 25, 1980. Rehearing was denied July 9, 1980. The Court of Appeals' opinion was affirmed by the Michigan Supreme Court in an order issued February 13, 1981. The jurisdiction of this Court is invoked under 28 USC Sec 1257(3).

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution provides as follows:

> "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public

> danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

The Fourteenth Amendment to the United States Constitution provides in pertinent part:

> "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF FACTS

Prior to trial in Detroit Recorder's Court on the charge of delivery of heroin, defense counsel approached the trial judge and asked him what sentence he would be likely to give defendant if convicted. This is a common practice in Recorder's Court. Judge Ravitz explained that based on the limited information he had about the case — that defendant was charged with delivery of about one pound of heroin, worth $30,000 — his likely sentence would be the maximum (13 years 4 months to 20 years). He also indicated that if upon conviction defendant decided to discuss with police or a designated representative what he knew about others higher up in the heroin trade, he would consider this as a mitigating factor at sentencing and might give defendant a little less time. The judge stressed that this was just his estimate of a likely sentence if defendant were convicted. He had seen no pre-

sentence report and he was not saying what defendant's sentence would be upon conviction. He explicitly stated he was expressing his general sentencing philosophy on narcotics cases based on hypothetical facts, not knowing all the details of the instant case, since there had as yet been no adjudication of guilt or innocence.

Defense counsel thereupon brought a motion to disqualify Judge Ravitz from presiding at the trial alleging he could not be fair and impartial. Judge Ravitz denied this motion (Hearing of 9/27/77 before Judge Ravitz), as did a second Recorder's Court Judge (Hearing of 9/27/77 before Judge Borman).

Defendant proceeded to trial. He denied the substance he delivered was heroin, testifying that he delivered an innocuous non-narcotic substance to the prospective buyer because he planned to cheat the man out of his $30,000. Defendant was convicted by a jury of delivery of heroin. He did not then seek to cooperate with the police. Instead, at sentencing, (The sentencing transcript is appended as Appendix D), he made a speech about how he would not be a "snitch". *At no time*, did he protest that cooperating with the police by naming others higher up in the narcotics trade would violate *his* Fifth Amendment right against *self*- incrimination. Neither did he allege that he was innocent. (Sentencing Transcript at page 5). The trial judge sentenced him to the maximum sentence of 13 years 4 months to 20 years in prison.

The Michigan Court of Appeals found no error in denying the motion to disqualify Judge Ravitz from presiding at trial, but did order resentencing before a different judge on the grounds that defendant's Fifth Amendment rights were violated; rehearing was denied. The Michigan Supreme Court affirmed the decision of the Michigan Court of Appeals.

REASONS FOR GRANTING THE WRIT

Petitioner believes that the Michigan Court of Appeals ruling on the instant facts, that

> "[i]t is a violation of Fifth Amendment rights for a judge to actively use the sentencing power to elicit information from a defendant. It is improper to punish a defendant for exercising his right to remain silent",

is in direct conflict with decisions of the United States Supreme Court, the ultimate authority on interpreting the United States Constitution. *Oregon* v *Hass*, 420 US 714, 723-724, 95 S Ct 1215, 43 LEd 2d 540 (1975).

Prior to trial defense counsel approached the trial judge and asked him what sentence defendant was likely to get if convicted. The judge honestly informed counsel of his tough attitude toward drug dealers, anticipating that he would be likely to sentence defendant to the maximum if he were convicted of the charge of delivering about one pound of heroin, worth $30,000. He indicated, however, that the sentence might be a little less if after conviction defendant chose to discuss with police what he knew about the involvement of *others*, those higher-up in drug trafficking. The judge's purpose in suggesting defendant cooperate with the police was to enable him to determine whether defendant should be given a *more lenient sentence than he deserved* for demonstrating, by his willingness to benefit society in helping the police and community combat the influx of heroin, that he was a good candidate for rehabilitation. No impropriety resulted from his acts. The courts have distinguished between the impermissible punishment of a person for honestly exercising his constitutional rights and the permissible refusal to extend leniency to a person who has not demonstrated behavior justifying leniency. See *Bordenkircher* v *Hayes*, 434 US 357, 364, 98 S Ct

663, 54 LEd 2d 604 (1978) and *Corbitt* v *New Jersey*, 439 US 212, 99 S Ct 492, 58 LEd 2d 466 (1978):

> There is no doubt that those homicide defendants who are willing to plead non vult may be treated more leniently than those who go to trial, but *withholding* the possibility of leniency from the latter cannot be equated with impermissible punishment as long as our cases sustaining plea bargaining remains undisturbed. Those cases, as we have said, unequivocally recognize the *constitutional propriety of extending leniency* in exchange for a plea of guilty *and of not extending leniency to those who have not demonstrated* those attributes on which leniency is based.
>
> 439 US at 223-224. (Emphasis added)

The United States Supreme Court expanded on this rationale in *United States* v *Grayson*, 438 US 41, 98 S Ct 2610, 57 LEd 2d 582 (1978), stating at page 50:

> [A] defendant's truthfulness or mendacity while testifying on his own behalf, almost without exception, has been deemed probative of his attitudes toward society and prospects for rehabilitation and hence relevant to sentencing.

This Court upheld a *harsher* sentence for a defendant who committed perjury, i.e., gave wilful material false testimony when testifying on his own behalf at trial. This Court rejected Grayson's argument that the possibility of an enhanced sentence would "chill" a defendant's right to testify on his own behalf, stating that there was no protected right to commit perjury.

Similarly, in *United States* v *Miller*, 589 F 2d 1117, 1137-1138 (1st Cir. 1978), cert. den., 440 US 958, 99 S Ct.

1499, 59 LEd 2d 771 (1979) the appellate court upheld the trial judge's authority to forego leniency and impose the maximum sentence upon a defendant who *refused to cooperate* with authorities in naming higher-ups in the narcotics trade and who *continued to deny his guilt* despite overwhelming evidence of that guilt:

> We perceive a distinction, however, between punishing a defendant for maintaining his innocence and preserving his right to appeal — whether that punishment be expressly or subtly imposed — and merely considering a defendant's failure to recant when evaluating his prospects for rehabilitation without incarceration.
>
> 589 F 2d at 1138.

Finally, in *Roberts* v *United States*, 445 US 552, 100 S Ct 1358, 63 LEd 2d 622 (1980), the United States Supreme Court reaffirmed this line of reasoning.

> This deeply rooted social obligation [to report criminal behavior] is not diminished when the witness to crime is involved in illicit activities himself. Unless his silence is protected by the privilege against self-incrimination, see Part III, infra, the criminal defendant no less than any other citizen is obliged to assist the authorities. The petitioner, for example, was asked to expose the purveyors of heroin in his own community in exchange for a favorable disposition of his case. By declining to cooperate, petitioner rejected an "obligatio[n] of community life" that should be recognized before rehabilitation can begin. See Hart, The Aims of the Criminal Law, 23 Law & Contemp Prob 401, 437 (1958). Moreover, petitioner's refusal to cooperate protected his former

> partners in crime, thereby preserving his ability to resume criminal activities upon release. Few facts available to a sentencing judge are more relevant to " 'the likelihood that [a defendant] will transgress no more, the hope that he may respond to rehabilitative efforts to assist with a lawful future career, [and] the degree to which he does or does not deem himself at war with his society.' " *United States* v *Grayson*, *supra*, at 51, 57 L Ed 2d 582, 98 S Ct 2610, quoting *United States* v *Hendrix*, 505 F2d 1233, 1236 (CA2 1974).
>
> 63 LEd 2d at 629.

Moreover, since the Fifth Amendment right against self-incrimination is not self-executing, it may not be asserted on appeal to dispute the propriety of a sentence imposed for non-cooperation with authorities by naming *others* where his right against *self*-incrimination was never put forth in the sentencing court to explain a defendant's failure to cooperate when he knew his intransigency would be used against him.

Proper application of these cases to the instant facts shows the trial judge's imposition of the maximum sentence upon defendant Peques did not violate his Fifth Amendment right against self-incrimination. Mr. Peques, like Mr. Roberts, knew his choice of intransigency would be used against him, yet neither he nor his attorney ever relied on his right against self-incrimination to explain his non-cooperation. Rather, he made a speech about not being a "snitch." This attitude showed he was not likely to "respond to rehabilitative efforts to assist with a lawful future career," was preserving "his ability to resume criminal activities upon release", and would continue to be a danger to the health and welfare of the community. Also, although Mr. Roberts had early-on admitted his delivery of heroin while Mr. Peques refused to admit his

guilt[2] (as did the defendant in *United States* v *Miller, supra),* there is no reason to believe the naming of *other persons,* those higher-up in the narcotics trade, would violate the rights against *self*-incrimination of either Mr. Roberts or Mr. Peques. Under the facts of the instant case, there was no violation of defendant's Fifth Amendment rights. The Michigan Court of Appeals decision is in direct conflict with the decisions of this Court.

---

[2] Although the trial court did not do so, under *United States* v *Grayson, supra,* he could have properly considered the fact that defendant Peques wilfully perjured himself at trial by testifying that the substance he delivered was not heroin (despite overwhelming evidence that it was, including the fact that the chemical analysis showed it to be heroin) because he planned to cheat the buyer of $30,000 by giving him an innocuous non-narcotic substance.

CONCLUSION

It is respectfully submitted that for the reasons outlined above, the decision of the Michigan Court of Appeals is in conflict with and misconceives decisions of this Court, and is in conflict with the Fifth and Fourteenth Amendments of the United States Constitution such that review should be granted by the Court, and Petitioner's petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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State of Michigan

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Counsel of Record
Principal Attorney, Appeals

(s) ANNE B. WETHERHOLT P-25635
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Dated: March 10, 1981.

APPENDICES A TO D

APPENDIX A

COURT OF APPEALS OPINION

STATE OF MICHIGAN
COURT OF APPEALS

People of the State of Michigan,
Plaintiff-Appellee,

April 25, 1980
No. 78-279

v

Wilbert Peques,
Defendant-Appellant.

BEFORE: D. E. Holbrook, Jr., P.J., and R.M. Maher and Cynar, JJ. PER CURIAM

On November 10, 1977, defendant was convicted by a jury of delivery of heroin contrary to MCL 335.341; MSA 18.1070(41). Thereafter sentenced to 13 to 20 years imprisonment, he appeals by leave.

Judge Ravitz indicated in an in-camera discussion with the attorneys that the defendant could anticipate the maximum sentence if convicted unless intelligence information was offered about other drug transactions. Defendant made a motion to disqualify Judge Ravitz and the judge denied it. The question was brought before another judge in the Recorder's Court and it was again denied. We find no error in the denial of the defense motion to disqualify. The record must show actual bias or prejudice before a conviction will be reversed on the ground that the trial judge should have disqualified himself. *People* v *Elmore*, 92 Mich App 678; ____ NW2d ____ (1979), *People* v *Lobsinger*, 64 Mich App 284; 235

NW2d 761 (1975). However, we do find that defendant is entitled to resentencing by a different judge. While there is a natural inclination to reward co-operation, there must be a reluctance to coerce it. It is a violation of Fifth Amendment rights for a judge to actively use the sentencing power to elicit information from a defendant. It is improper to punish a defendant for exercising his right to remain silent. This would include a situation where the defendant admits guilt, but refuses to disclose details of criminal activities. *People* v *Anderson*, 391 Mich 419; 216 NW2d 780 (1974), *People* v *Westerfield*, 71 Mich App 618, 644; 248 NW2d 641 (1977).

As to defendant's remaining allegations of error, we find them to be without merit.

Affirmed. Remanded for resentencing before a different judge. We do not retain further jurisdiction.

APPENDIX B

COURT OF APPEALS DENIAL OF APPLICATION FOR REHEARING

AT A SESSION OF THE COURT OF APPEALS OF THE STATE OF MICHIGAN, Held at the Court of Appeals in the City of Lansing, on the 3rd day of July in the year of our Lord one thousand nine hundred and eighty.

Present the Honorable Donald E. Holbrook, Jr., Presiding Judge. Richard M. Maher, Walter P. Cynar, Judges.

People of the State of Michigan,
Plaintiff-Appellee,

v

Wilbert Peques,
Defendant-Appellant.

AMENDED ORDER

No. 78-279

In this cause an application for rehearing is filed by plaintiff-appellee, and an answer in opposition thereto having been filed, and due consideration thereof having been had by the Court,

IT IS ORDERED that the application for rehearing be, and the same is hereby DENIED for lack of merit in the grounds presented.

STATE OF MICHIGAN — SS)

I, Ronald L. Dzierbicki, Clerk of the Court of Appeals of the State of Michigan, do hereby certify that the foregoing is a true and correct copy of an order entered in said court in said cause; that I have compared the same with the original, and

that it is a true transcript therefrom, and the whole of said original order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court of Appeals at Lansing, this 9th day of July in the year of our Lord one thousand nine hundred and eighty.

(s) Ronald L. Dzierbicki
Clerk

APPENDIX C

SUPREME COURT ORDER

AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN, Held at the Supreme Court Room, in the City of Lansing, on the 13th day of February in the year of our Lord one thousand nine hundred and eighty one.

Present the Honorable MARY S. COLEMAN, Chief Justice, THOMAS GILES KAVANAGH, G. MENNEN WILLIAMS, CHARLES L. LEVIN, JOHN W. FITZGERALD, JAMES L. RYAN, BLAIR MOODY, JR., Associate Justices.

CR 31-41 & a & b

People of the State of Michigan,
Plaintiff-Appellant,

v

Wilbert Peques,
Defendant-Appellee.

SC: 65655
COA: 78-279
LC: 77-05507

On order of the Court, the motion for immediate consideration is GRANTED.

The delayed application for leave to appeal is considered, and, pursuant to GCR 1963, 853, 2(4), in lieu of leave to appeal, we AFFIRM the judgment of the Court of Appeals, and we direct that the Court of Appeals opinion in this case be published.

The stay of resentencing previously ordered by this Court is DISSOLVED.

Williams and Moody, Jr., JJ., dissent, in part, and state as follows:

We would set aside that part of the judgment of the Court of Appeals which found the defendant was entitled to resentencing by a different judge.

In making a sentence determination, it is within the discretion of the trial judge to consider as an aspect of remorse whether a defendant has or has not cooperated with law enforcement authorities. However, the recommendation of the trial judge to the Department of Corrections proposing future punishment if the defendant remains uncooperative is coercive and improper.

STATE OF MICHIGAN — ss

I, Harold Hoag, Clerk of the Supreme Court of the State of Michigan, do hereby certify that the foregoing is a true and correct copy of an order entered in said court in said cause, that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Supreme Court at Lansing, this 18th day of February in the year of our Lord one thousand nine hundred and eighty one.

(s) Corbin R. Davis
Deputy Clerk

APPENDIX D

SENTENCING TRANSCRIPT

STATE OF MICHIGAN

In The Recorder's Court For The City of Detroit

The People Of The State Of Michigan,

-vs-

File No.
77-05507

Wilbert Peques, Michele Hooks, Vivian Clark,

Defendants.

PROCEEDINGS Had In The SENTENCE Of The Above-Entitled Cause Held Before The HONORABLE JUSTIN C. RAVITZ, Judge Of The Recorder's Court, Held On Tuesday, November 22, 1978.

APPEARANCES:

MR. JOEL ISAACSON,
Attorney-at-Law,

On Behalf Of Each Defendant.

THE COURT: File Number 77-05507, State vs. Wilbert Peques, Michele Hooks and Vivian Clark; the defendants were all convicted by a jury on November 10th of Delivery of Heroin. They are here today for purposes of Sentencing.

The record should reflect that I've reviewed the pre-sentence report and recommendations submitted as to all three of you and in addition I've received three letters that I read with respect to Mr. Peques one of which was written by himself.

Before I impose sentence, is there anything you, Mr. Isaacson, or the Defendants or anybody else wishes to say on their behalf, you're welcome to speak.

MR. ISAACSON: Yes, Your Honor, I'd like to make a few comments if the Court please, however, I'd like to defer to Mr. Peques' Reverend who is here. Reverend Abrahams would like to address the court.

REV. ABRAHAMS: Your Honor, I'd like to thank you for this privilege of having the opportunity to say just a word on the behalf of Mr. Peques who has been a member of our church for some time.

I'd like to say that he have displayed a type of character that we believe is outstanding in the community and he have lived in such a manner that we have not seen anything of him, about his character, that would indicate that he was not anything except a law-abiding citizen. So we're deeply moved by this thing that has happened. We are hoping that in the interest of mercy that we might make some kind of a plea on his behalf, Your Honor. That if there's a stipulation within the framework of mercy that you'd extend to him, — some leniency, we would like to ask you to consider this at this time. He has been a beautiful person in our presence; he have been a good member of the church. We would like to ask this at this time.

THE COURT: Reverend, thank you. I appreciate your presence and I appreciate your remarks.

Frankly, I'm tempted to inquire as to the church's attitude about one who would dispense $30,000.00 worth of heroin in our community; but that might be a bit unfair to ask that of you at this point so I'll refrain from asking.

Mr. Isaacson, is there anything that you or others wish to say?

MR. ISAACSON: I'd like to address the Court just briefly in relationship to the defendants.

I have had a chance to read the pre-sentence reports; I have no additions or corrections to make. I would just — well, I hesitate to get into a long dissertation to the Court because the Court has indicated to us its feelings regarding this case from the outset. However, I would just indicate that Mr. Peques has no previous felony record; he is married; he has a good employment record; he has a — four years in the Air Force; he has an honorable discharge and a good conduct medal and I'd ask the Court to take those things into consideration in imposing sentence upon Mr. Peques.

In relation to Miss Clark, Your Honor, she had no record at all. She had a very good job; she's a data processor, computer key punch operator and she's a high school graduate and has had training thereafter. I'd ask the Court to take those things into consideration in relation to Miss Clark's sentencing.

In relation to Mrs. Hooks, Your Honor, I do understand and know that you have sentenced her or are about to on some other matters that there are reports quite in depth regarding her and I think they will speak for themselves.

THE COURT: Thank you.

Anything you wish to say, Mr. Peques?

DEFENDANT PEQUES: Yes, sir.

I would like to say that I think that this thing has really been blown totally out of proportion and I'd like to thank the reverend and all my other friends who are here, who come down. And there's quite a bit that I would like to say but I'm not free — am I free to speak?

THE COURT: Certainly.

DEFENDANT PEQUES: Okay. There's a little note, a letter that I compiled yesterday and it really reflects my feelings and attitude of this Court, that has adopted toward me. It goes like this: I knew from the start you had convicted me in your heart. You say cooperate with me; I'll set you free. What manner of man do you choose to make me? Over and over again and again, inform, inform. What about your paid ser-

vants that are in uniform? It is I who has the most to lose from your force of 5000 from which you choose. Where is your logic? If a man is busted why would he be trusted? His freedom for another; he'll have me, not another brother. Where's your logic? Why take a felon word; bust anyone or tell us what you have heard. You held the cops for a job well done, yet you insist I resist. You put me under the gun. 30,000 in dope you say you buy; zero to 4.6, — just a very bad try. 95.4 I'd like to know there — this is nothing but a very sad show. Where's all the logic went? What would be the charge if it was 100 percent? Who's foolin' who? You're not foolin' me; you only want someone to screw. What will be your next move since snitchin' I did not choose. Is there any more that you want me to lose? Maybe stand mute and be your fool? With a conviction you're not satisfied, you still say bust, run and hide. I take what I got coming, nothing could be worse as running. With a conviction you take my bond, not because you think I may run, only to put on the heat. Appeal, appeal, this will be the last try, which is your option to deny. Probation, suspended sentence, fine, I deserve any of the three. I strongly urge, we deserve a break today, though we've been convicted of going astray. Breaker, breaker, which channel do I dial; we did not receive a very fair trial.

And those are my sincere opinions of what has happened.

THE COURT: Thank you.

Anything you wish to say, Miss Hooks?

DEFENDANT HOOKS: No.

THE COURT: Miss Clark?

DEFENDANT CLARK: No.

THE COURT: Mr. Peques, we could probably carry on an interesting dialogue.

DEFENDANT PEQUES: I believe we could.

THE COURT: Mine wouldn't be in the form of poetry because poetry is a form of art and art should be reserved to give expression to things that are meaningful and to things

that are true and to things that reflect reality for real human beings out here.

You can posture all you want as a victim; you can even perhaps publish poetry from prison; we can call it letters from prison by Mr. Peques but you're not a victim you're a victimizer. You're the sort of person who wasn't out here suffering as an addict who needed heroin and who might have occasionally dealt in heroin in order to support your habit. You rather I'm satisfied from all the evidence are the person who didn't care about the small people strung out here but rather who cared about enhancing your own fortune.

DEFENDANT PEQUES: Sir, I —

THE COURT: I don't have any respect for your poetry; I don't have any respect for your position and I don't regard you as a victim; I regard you as quite the opposite. I never promised you freedom for snitching. I did say to you straight up that if you wanted credit for giving reliable, intelligent information on people above you up the ladder, that you would get credit for that. And I don't apologize for that position at all because I happen to tire of seeing the down and out, poor victim addicts herded through the Court while the rich, fat cats invariably go free. So I'll use my office to do what I can without apologizing ever to get higher up the ladder.

It's the sentence of this Court, Mr. Peques, that you be confined to the custody of the Michigan Department of Corrections, sir, for a period of not less than 13 years and 4 months and for a period not to exceed 20 years. The maximum set by statute. My recommendations to the Department of Corrections are that they hold you for the maximum term unless you give them, soon after your arrival, meaningful intelligence information on who the higher ups are and if you don't I hope they keep you for 20 years. And if you get out earlier then people might think you did snitch and that's an interesting word. You somehow or another think that it's wrong, — think that it's dirty to snitch. I can respect that to a certain extent. There

are people who one shouldn't snitch on but the dope man isn't such a person. It can be heroic to tell who poisons all of our young people. You get 13 days credit for time already served.

Miss Hooks, it's the sentence of this Court that you be confined to the custody of the Michigan Department of Corrections for a period of not less than 10 years and for a period not to exceed 20 years. You get 119 days credit for time already served.

Miss Clark, it's the sentence of this Court that you be confined to the custody of the Michigan Department of Corrections for a period of not less than 9 years and for a period not to exceed 20 years. You get credit for 13 days already served.

It's my responsibility to tell the three of you that you all have a right to appeal your convictions and your sentences if you wish. If you want to appeal and you cannot afford a lawyer to do so I'll appoint one for you for free, so long as you return the appeal papers to me within 60 days.

Thank you.

MR. ISAACSON: If the Court please, I would like to make a motion at this time to reinstate the bond so that the defendants, especially Miss Clark and Mr. Peques, — in essence appeal bonds, — while we appeal this matter. I think there are significant issues that have been raised by the motions and the proceedings herein and I think that Mr. Peques has shown good faith in appearing in Court whenever directed. And I reques [sic] the Court to allow him to remain at large on that bond while the case is being appealed.

THE COURT: Motion for bond pending appeal is denied.

(Hearing Concluded)

# # #

STATE OF MICHIGAN)
) SS.
COUNTY OF WAYNE)

CERTIFICATE OF COURT REPORTER

I, NORMAN R. BARKER, Official Court Reporter, do hereby certify that I have recorded stenographically the proceedings had in the foregoing cause before the HONORABLE JUSTIN C. RAVITZ, Judge of the Recorder's Court, held on date, and at the time and place hereinbefore set forth; that the foregoing transcript is a true, complete, and accurate transcript of my said stenographic recordings.

NORMAN R. BARKER, (R0401)
Official Court Reporter

Dated this 3rd day of April, 1978.
Detroit, Michigan.